

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CASE NO. 5:18-CV-075-KDB-DCK**

BENJAMIN REETZ,

Plaintiff,

v.

**LOWE’S COMPANIES, INC.,
ADMINISTRATIVE COMMITTEE OF
LOWE’S COMPANIES, INC., and AON
HEWITT INVESTMENT CONSULTING,
INC.**

Defendants.

ORDER

THIS MATTER IS BEFORE THE COURT on “Plaintiff’s Motion To Compel Discovery From Defendant Aon Hewitt Investment Consulting, Inc.” (Document No. 106) filed November 19, 2020. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion and the record, the undersigned will grant the motion in part and deny the motion in part.

The pending motion to compel seeks production of 28 documents from Defendant Aon Hewitt Investment Consulting, Inc. (“Aon Hewitt”) that Plaintiff claims are subject to the fiduciary exception to the attorney-client privilege. (Document No. 106); see (Document No. 124). The undersigned previously considered this motion in an Order dated February 26, 2021, which granted the motion in part as to 3 of the documents sought by Plaintiff and denied the motion in part as to 5 of the documents sought. (Document No. 206). The undersigned ordered that Plaintiff and Aon Hewitt confer regarding the 20 documents for which a determination was not made about application of the fiduciary exception to the attorney-client privilege. Id. at p. 27. The Order

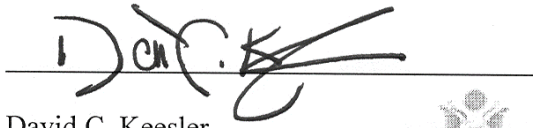
indicated that if the parties could not reach agreement about production of the 20 documents still at issue, Aon Hewitt would be required to submit the documents to the Court for *in camera* review by March 8, 2021. Id. Aon Hewitt submitted 18 documents at issue to the Court for *in camera* review after voluntarily producing 2 of the 20 documents at issue to Plaintiff.

The Court has conducted an *in camera* review of the documents that Aon Hewitt submitted. For a description of the factual background regarding the pending motion to compel and a description of the fiduciary exception to the attorney-client privilege, the undersigned directs attention to this Court's February 26, 2021 Order considering the pending motion to compel. See (Document No. 206). Following a close review of the documents at issue, careful consideration of the underlying briefs and record, and analysis of case law regarding the fiduciary exception to the attorney-client privilege, the undersigned has determined that 4 documents are not subject to the fiduciary exception to the attorney-client privilege and thus do not need to be produced, and 14 documents are subject to the fiduciary exception to the attorney-client privilege and therefore must be produced, as detailed below.

IT IS, THEREFORE, ORDERED that "Plaintiff's Motion To Compel Discovery From Defendant Aon Hewitt Investment Consulting, Inc." (Document No. 106) is **GRANTED in part** and **DENIED in part**, as discussed herein. Defendant shall either produce the following documents that it is withholding or produce the following documents in unredacted form by **March 15, 2021**: AON-PRIV-01126; AON-PRIV-01745; AON-PRIV-01799; AON-PRIV-01242; AON-PRIV-00834; AON-PRIV-01255; AON-PRIV-01256; AON-PRIV-01915; AON-PRIV-01460; AON-PRIV-01971; AON-PRIV-01370; AON-PRIV-00890; AON-PRIV-00792; and AON-PRIV-01952. Defendant is not required to produce the following documents: AON-PRIV-01737; AON-PRIV-01020; AON-PRIV-01890; and AON-PRIV-01962.

SO ORDERED.

Signed: March 10, 2021

A handwritten signature in black ink, appearing to read "D.C. Keesler", is written over a horizontal line.

David C. Keesler
United States Magistrate Judge

